

CITY OF MORGAN HILL
JOINT REGULAR REDEVELOPMENT AGENCY AND
SPECIAL CITY COUNCIL MEETING
MINUTES - JULY 25, 2001

ALL TO ORDER

Agency Member/Mayor Pro Tempore Sellers called the regular and special meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Chang, Sellers, Tate
Absent: Chairman/Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Agency Member/Mayor Pro Tempore Sellers, Police Captain Sullivan led the Pledge of Allegiance.

INTRODUCTIONS

Council Services and Records Manager Torrez introduced Stephan Gibbs and Karla Wilkinson, Office Assistant IIs and Chief of Police Schwab introduced Andrew Jackson, Police Officer, recent hires to the City of Morgan Hill.

PRESENTATION

Chief of Police Schwab introduced Sergeant Daniel P. Tracey and announced his retirement. Agency Member/Mayor Pro Tempore presented a Certificate of Appreciation to Sergeant Tracey upon his retirement from 31 years of law enforcement and 29 years of dedicated service to the City of Morgan Hill.

PUBLIC COMMENTS

Agency Member/Mayor Pro Tempore Sellers opened the floor to public comments for items not appearing on the agenda.

Rocky Garcia requested that the City Council consider extending the time for filing conceptual reviews as well as Measure P applications from October 1 to November 1 to allow developers additional time to prepare and submit applications for Measure P. This request is based on the

numerous changes in points to the standards and criteria, noting 6-8 points difference made this year. He stated that he has agreed to place single family detached homes backing up to the open space and Santa Teresa Boulevard. There is a question between whether or not this is supposed to be a multi-family low or single family land use designation. He stated that either designation would not affect the number of units or information presented.

Executive Director/City Manager Tewes indicated that the Council could address Mr. Garcia's question relating to the land use designation as part of Agenda Item 21. He stated that the Measure P filing deadline is October 1. However, Measure P allows the filing of applications to November 1. This would be a City Council policy question.

Action: *By consensus, the City Council **directed** staff to agendize discussion of the Measure P filing deadline for a future meeting date.*

Redevelopment Agency and/or City Council Action

CONSENT CALENDAR:

Vice-chairman/Council Member Carr requested that Items 3 and 5 be pulled from the Consent Calendars.

Redevelopment Agency Action

Action: *On a motion by Agency Member Tate and seconded by Agency Member Chang, the Agency Commission, on a 4-0 vote with Chairman Kennedy absent, **Approved** Consent Calendar Items 1 and 2 as follows:*

1. **PRELIMINARY JUNE 2001 FINANCE AND INVESTMENT REPORT**

Action: ***Accepted and Filed** Report.*

2. **CONSULTANT AGREEMENT WITH BENCHMARK**

Actions: *1) **Authorized** a 10% Increase of the 2000/2001 Consultant Services Agreement with Benchmark to Allow for Costs Beyond the Original Contract, and 2) **Authorized** the Executive Director to Execute a Consultant Services Agreement with Benchmark, for FY 01-02, in an Amount Not to Exceed \$690,000 to Provide Project Management Services and Lead Testing for Housing Improvement Programs.*

City Council Action

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council, on a 4-0 with Mayor Kennedy absent, **Approved** Consent Calendar Items 4 and 6-8 as follows:*

4. **PRELIMINARY JULY 2001 FINANCE AND INVESTMENT REPORT**

Action: **Accepted** and **filed** report.

6. **RESOLUTION DECLARING WEEDS TO BE A NUISANCE - Resolution No. 5506**
Action: **Adopted** Resolution No. 5506 Declaring Weeds to be a Nuisance and Setting August 1, 2001 as the Date for the Public Hearing Regarding Brush Abatement.
7. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 8969, ORCHARD ACRES SUBDIVISION - Resolution No. 5507**
Actions: 1) **Adopted** Resolution No. 5507, Accepting the Subdivision Improvements Included in Tract 8969, Commonly Known as Orchard Acres; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.
8. **RESOLUTION APPROVING CALIFORNIA ENERGY COMMISSION PEAKLOAD REDUCTION GRANT REQUEST - Resolution No. 5508**
Action: **Adopted** Resolution No. 5508 Applying for a \$221,000 CEC Innovative Peak Load Reduction Grant for Peakload Reduction Associated with the Construction of Edmundson and Boys Ranch #3 Reservoirs.

Redevelopment Agency and City Council Action

Action: On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Chang, the Agency Commission/City Council, on a 4-0 vote with Chairman/Mayor Kennedy absent, **Approved** Consent Calendar Items 9-12 as follows:

9. **JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 10, 2001**
Action: **Approved** the Minutes as written.
10. **JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 11, 2001**
Action: **Approved** the Minutes as written.
11. **JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 11, 2001**
Action: **Approved** the Minutes as written.
12. **JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 20, 2001**
Action: **Approved** the Minutes as written.
3. **HOUSING TRUST OF SANTA CLARA COUNTY - Resolution No. MHRA-236**

Vice-chairman Carr indicated that he pulled Consent Calendar Item No. 3 because Chris Block, Executive Director for Housing Trust, was in attendance this evening. He recommended that Mr.

Block be given the opportunity to address the Agency Commission.

Mr. Block indicated that the City of Morgan Hill was one of a very small number of cities willing to double its contribution. Housing Trust staff began to talk about this fact with other cities who had not yet contributed. He was pleased to announce that within the last six weeks, Monte Sorreno, Saratoga and Mountain View have come on board, supporting the Housing Trust. He stated that Morgan Hill is recognized as a leader, especially in the production of affordable and innovative housing stock. He thanked the Agency Commission for its support and stated that the Housing Trust is very close to reaching its \$20 million goal.

Agency Member Sellers stated that there is an opportunity for these funds to come back to Morgan Hill at a greater rate. He requested that Mr. Block continue to work closely with Morgan Hill and consider Morgan Hill among the first for projects.

Vice-chairman Carr noted that funds given to the Housing Trust came from the Agency's 20% housing set aside funds. He asked if there were other funds that can be used such as other Redevelopment Agency or General Funds?

Mr. Toy indicated that the 20% housing set aside is the minimum that the Agency can earmark and that there are no restrictions that limit contributions of 20% toward affordable housing.

Executive Director Tewes indicated that the Housing Element requires that cities provide housing opportunities within communities and that the Housing Element has to identify funding sources and implementation. He said that the Housing Trust has larger responsibilities that go beyond the obligation of the City's Housing Element.

Agency Member Sellers felt that Vice-chairman Carr's concern was a valid one. He felt that a good point was made that the 20% housing set aside is not a hard and fast amount and that the City can exceed the 20% set aside amount. For accounting purposes, he felt that it made sense to take action as recommended, but to keep in mind that there are other opportunities and that the City is not bound by 20%.

Actions: *On a motion by Vice-chairman Carr and seconded by Agency Member Chang, the Agency Commission, on a 4-0 vote with Chairman Kennedy absent: 1) **Adopted** Resolution No. MHRA - 236 Authorizing a Second Contribution of \$100,000 to the Housing Trust of Santa Clara County; and 2) **Authorized** the Executive Director to Execute and Make Modifications, as Needed, to the Agreement with the Housing Trust of Santa Clara County.*

City Council Action

5. FINAL PROGRESS REPORT ON 2000 - 2001 CITY WORKPLAN

Council Member Carr referred to the first page of the Workplan report for the Business Assistance

and Housing Services (BAHS). He noted that item No. 2 states that staff will complete and implement the justice center DDA. He said that the County has scheduled a public hearing on August 7 for the justice center. He asked if the City is planning to notify Morgan Hill residents of the public hearing?

Director of Business Assistance and Housing Services Toy stated that Santa Clara County staff has indicated that they have provided notice of the August 7 public hearing meeting. Staff has prepared and sent a flier to everyone who attended community workshops advising them of the August 7 meeting. Staff also advertised the public hearing on Channel 17, including an article in City Visions, and that a notice has been placed in the local paper as well as posting on the City's web site.

Council Member Carr referred to BAHS work item No. 10, downtown improvements. He stated that he was not clear about the scope and the difference between downtown improvements and the downtown plan. Mr. Toy clarified that item 10 addresses the feasibility study that would be completed to help the downtown merchants develop a structure for managing them as an organization and to determine methods of maintaining possible improvements. The report to be presented to the City Council in August will contain a recommendation based on comments from the downtown merchants and key stakeholders about the level of physical improvements that would like to be seen in the downtown area.

Council Member Carr referred to the City Manager's section - Develop a City legislative agenda. He asked if the agenda will include discussion of the state reapportionment and how the community falls within the new districts? Assistant to the City Manager Eulo responded that reapportionment has not been discussed by the Legislative Committee.

Mayor Pro Tempore Sellers stated that it was his understanding from the State that in August, preliminary maps will be made available but that they would not finalize the maps until September. He recommended that the maps/plans be reviewed in August that come from the State Senate and Assembly as there is a possibility that they may have a significant impact to the City.

Council Member Carr felt that there are general thoughts that should be put into informal written comments to be sent to State legislators about this issue. He asked how new items that come up during the year are added to the Workplan?

City Manager Tewes said that every single project being worked on by staff are included in the workplan. The Workplan items are projects of high priority to the City Council and the community for which keeping account is important. He indicated that staff is in the midst of preparing a Workplan for the current fiscal year. The City Council will have an opportunity to indicate whether these are the projects that the City Council would like staff to be working on and whether they are the high priority items.

Council Member Carr stated that there is a lot of work that is going on and that identifying said projects in a format that can be pointed to and addressed is important. He noted that projects have been delayed due to inadequate staffing or loss of staff. He hopes that this becomes the number one priority in departments as the City moves forward in order to get the projects completed. He

referred to the Recreation Department relating to school district field reservation, noting that staff was waiting for further input from the School District. He asked if this issue was completed at the recently held City-School Liaison meeting?

Council Member Tate indicated that the School District advised City staff that the information would be provided shortly but that it has not been provided to date. Mayor Pro Tempore Sellers indicated that this issue is in the court of the School District.

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Received** and **Filed** the Report.*

Redevelopment Agency Action

OTHER BUSINESS:

13. POLICE OFFICER HOUSING ASSISTANCE PROGRAM

Director of Business Assistance and Housing Services Toy presented the staff report. He advised the Agency Commission that interest is accrued the five years that it is deferred and that simple interest is rolled over to be amortized into 15 years.

Agency Member Tate felt that the combination of being third in position and the 95% after rehab cost appeared high. He felt that this would be difficult because it is not known what the value of the home would be until the improvements are completed. He felt that the City was going out on a limb with the possible downturn in the economy and the value of improvements not matching up.

Mr. Toy said that in general, many cities will allow 95% of value in order to proceed with rehab improvements as an individual may need this amount of financing in order to make improvements. He agreed that 95% does not give you much leeway should the economy drop and the value of the home drops. Most likely, an individual would not be inclined to sell their home because they just spent a lot of money to improve the home and have ties to the community. He noted that under the program, it is known that the loan would become due and payable within 120 days should a police officer leave the community.

Agency Member Sellers opened the floor to public comment. No comments were offered.

Actions: *Agency Member Tate made a motion, seconded by Agency Member Chang, to 1) **Approve** the Police Officer Housing Assistance Program as an On-going Housing Program; and 2) **Authorize** the Executive Director to Modify Maximum Purchase Price and Loan Amounts as Needed to Reflect the Market*

Agency Member Tate stated that he liked the recommendation of making the program available to police officers residing in Morgan Hill in order to move up one time, retaining them in the

community.

Agency Member Chang requested that staff look into the program and consider making it available to teachers as well.

Vice-chairman Carr recommended the following changes: 1) allow up to 120% of median; and 2) no interest to be accrued the first five years (no interest until year 6 similar to a program that Santa Clara offers to first time home buyers).

Executive Director Tewes requested that the Agency Commission identify items that it would like to have staff evaluate as there may be income tax consequences to loan recipients.

Agency Member Chang felt that this was an excellent interest rate and that it should be retained.

Agency Member Tate stated that he would not like to make changes without understanding the ramifications. He recommended that the Agency Commission approve the action before it and direct staff to study recommended changes.

Vice-chairman Carr asked if this program would be reviewed on an on going basis based upon the maximum purchase price of homes? Mr. Toy responded that staff is requesting flexibility on the maximum home purchase price. He stated that staff could report back each year on the status of the program and the number of participants.

Agency Member Chang recommended that the maximum home purchase price be tied to the average housing or the median prices in Morgan Hill versus a fixed price of \$500,000.

Action: *On a motion by Agency Member Tate and seconded by Agency Member Chang, the Agency Commission modified the motion to include the following: 3) **approved** up to 120% median; 4) **directed** staff to study the interest rate; and 4) **staff to return** on a yearly basis with a report on the housing prices.*

14. COMMUNITY AND CULTURAL CENTER BID AUTHORIZATION

Director of Community Development Bischoff presented the staff report. He informed the Agency Commission that Franz Steiner, project architect; and George Williams, project manager, were in attendance to address the Agency Commission on the project's cost estimates.

Agency Member Sellers opened the floor to public comment. No comments were offered.

Agency Member Tate expressed concern that the project cost went over by 12% and that the City would be digging into its contingency. He stated that he liked everything that was being recommended by staff but that he sees the low contingency as a real exposure.

George Williams stated there are several contingencies in the project's budget. He indicated that there is still a \$100,000 contingency for a few remaining items that may not be fully covered in the

estimate. In addition to this, he stated that there is a \$600,000 project contingency which is intended to cover unforeseen conditions during construction, both on the construction side as well as other items in the project. He stated that the purpose of carrying a design contingency in an estimate is to account for items as they become defined during the construction document process.

Executive Director Tewes stated that he too is concerned with the level of remaining project contingency, noting that it is less than one would like to proceed with. Staff is recommending two approaches: 1) After actual bids are in hand and the City modifies the scope of the project, the City has the opportunity to do so. 2) The City would like to have actual bids at hand before returning to the Agency for the final financing strategy. At that time, staff will know precisely what the bid cost will be. Staff will seek competitive bids and return with a financial strategy which will provide for an appropriate level of construction contingency.

Agency Member Sellers stated that he initially expressed concern to staff about being more than \$.5 million dollars to what was proposed after using the entire contingency. He understood that there were things that were beyond the reliance of others that did not come forward. This causes him significant concern and felt that it will cause the Agency to take a closer look at the next phases in the process. He felt that the construction industry would be kind to the City and that the City would end up with a product close to budget. He noted that the Agency Commission has stated from the beginning that the most important issue is a quality product. He said that the bid alternates cause him great concern because half of the items were ones that cannot be deferred. He felt that soliciting benefactors was an alternative that could be explored. He did not believe that some of the community center features should be considered as alternatives (e.g., terraced lawn, full prep kitchen). He stated that he was anxious in moving forward with these features.

Mr. Williams stated that his primary goal is to provide the city with a quality facility. He did not believe that cutbacks to the facility is in the best interest of the community. He is offering possible alternates not because he wants to see them, but that it is felt that it is important for the Agency Commission to have the flexibility when the bids come in to make adjustments should it find itself in this position. Everyone is hopeful that the bid climate will be such that it will be favorable and that the competition will be stiff. He stated that estimates are estimates and that until a contract is awarded for an agreed upon cost, everyone is in the dark.

Agency Member Chang stated that she was pleased to see the project to this stage and that she would hold the architect to a classic building and structure.

Action: *On a motion by Agency Member Tate and seconded by Vice-chairman Carr, the Agency Commission, on a 4-0 vote with Chairman Kennedy absent, **Authorized** Staff to Solicit Proposals for Construction of Center by Minute Action.*

Redevelopment Agency and City Council Action

PUBLIC HEARINGS:

15. AUTHORIZING THE REDEVELOPMENT AGENCY TO PAY FOR THE

DEVELOPMENT OF THE COMMUNITY PLAYHOUSE -Resolution Nos. MHRA-232 and 5502

Director of Business Assistance and Housing Services Toy presented the staff report.

Agency Member/Mayor Pro Tempore Sellers opened the public hearing. No comments being offered, the public hearing closed.

Redevelopment Agency Action

Action: *On a motion by Agency Member Chang and seconded by Agency Member Tate, the Agency Commission, on a 4-0 vote with Chairman Kennedy absent, **Adopted** Resolution MHRA - 232 Approving the Payment by the Agency of All of the Value of the Land and All or a Part of the Cost of the Relocation, Rehabilitation and Construction of a Community Playhouse and Related Improvements in the Ojo de Agua Community Development Project Area.*

City Council Action

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Adopted** Resolution No. 5502 Approving the Payment by the Agency of All of the Value of the Land and All or a Part of the Cost of the Relocation, Rehabilitation and Construction of a Community Playhouse and Related Improvements in the Ojo de Agua Community Development Project Area.*

16. AUTHORIZING THE REDEVELOPMENT AGENCY TO PAY FOR THE DEVELOPMENT OF THE SPORTS COMPLEX - Resolution Nos. MHRA-233 and 5503

Director of Business Assistance and Housing Services Toy presented the staff report.

Agency/Council Member Tate noted that throughout the staff report and staff presentation, it was stated that 10 ballfields and 6 soccer fields are proposed. It was his belief that fields were not dedicated for specific uses and that the field numbers were approximate. He was not convinced that volleyball courts should not be included and that the numbers were correct.

Mr. Toy clarified that the resolution indicates that the numbers are whatever is proposed by the Agency Commission/City Council and that it does not lock the City into specific numbers or uses.

Agency Member/Mayor Pro Tempore Sellers opened the public hearing. No comments being offered, the public hearing was closed.

Redevelopment Agency Action

Action: *On a motion by Agency Member Chang and seconded by Agency Member Tate, the Agency Commission, on a 4-0 vote with Chairman Kennedy absent, **Adopted** Resolution MHRA - 233, Approving the Payment by the Agency of All of the Value*

of the Land for and All or a Part of the Cost of the Installation and Construction of a Sports Complex Facility and Related Improvements to Serve the Ojo de Agua Community Development Project Area.

City Council Action

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Adopted** Resolution No. 5503, Approving the Payment by the Agency of All of the Value of the Land for and All or Part of the Cost of the Installation and Construction of a Sports Complex and Related Improvements to Serve the Ojo de Agua Community Development Project Area.*

17. AUTHORIZING THE REDEVELOPMENT AGENCY TO PAY FOR THE DEVELOPMENT OF THE COMMUNITY RECREATION CENTER - Resolution Nos. MHRA-234 and 5504

Director of Business Assistance and Housing Services Toy presented the staff report.

Agency Member/Mayor Pro Tempore Sellers opened the public hearing. No comments being offered, the public hearing was closed.

Redevelopment Agency Action:

Action : *On a motion by Agency Member Chang and seconded by Agency Member Tate, the Agency Commission, on a 4-0 vote with Chairman Kennedy absent, **Adopted** Resolution MHRA-234, Approving the Payment by the Agency of All of the Value of the Land for and All or Part of the Cost of the Installation and Construction of a Community Recreation Center and Related Improvements in the Ojo de Agua Community Development Project Area.*

City Council Action:

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Adopted** Resolution No. 5504, Approving the Payment by the Agency of All of the Value of the Land for and All or a Part of the Cost of the Installation and Construction of a Community Recreation Center and Related Improvements in the Ojo de Agua Community Development Project Area.*

OTHER BUSINESS:

18. HOUSING PAINT & CLEAN-UP GRANT PROGRAM - Resolution Nos. MHRA 235 and 5505

Director of Business Assistance and Housing Services Toy presented the staff report. He informed the City Council that a revised resolution was distributed this evening for Agency Commission/City Council consideration.

Agency Member/Mayor Pro Tempore Sellers stepped down from this item as he is taking advantage of this program as have a couple of his neighbors.

Vice-chairman/Council Member Carr opened the public hearing. No comments being offered, the public hearing was closed.

Agency/Council Member Chang inquired why staff is proposing this program to be implemented city-wide, noting that this is a Redevelopment Agency program being recommended to go outside the project area?

Mr. Toy responded that it is staff's belief that there are one or two areas outside the project area where homes would benefit from this program (e.g., East Dunne, behind Nordstrom School), preserving affordable housing stock as well as enhancing the appearances of neighborhoods. He stated that staff does not anticipate many applications outside the project area.

Agency/Council Member Tate stated that he read Section 2 of the resolution which states that this program benefits the project area. He did not understand the nexus. He agreed that the program would benefit homes once they receive the loans but asked how it benefits the project area.

Mr. Toy said that the program may benefit low/moderate income individuals who work in the project area, preserving affordable housing stock. Also, it would enhance the neighborhood within the community, ultimately benefitting economic development within the community. He stated that should the City Council/Agency Commission not support a city-wide program, the program could be retained solely for the Project area.

Agency/Council Member Tate said that he did not object to implementing the program city-wide if there are areas in need of the program. However, he did not want to see the City in legal trouble by not making the appropriate findings of benefit.

Agency Counsel/City Attorney Leichter said that the level of findings that need to be made are minimal. She stated that Mr. Toy articulated the findings in terms of the benefits within the project from action outside the project area.

Agency/Council Member Chang stated that she was having difficulty approving the program outside the Redevelopment project area. She stated that she supports the program within the Redevelopment project area as she did not see government's role as assisting those who can afford a \$400,000 home. She felt that the Redevelopment Agency should only help those who cannot help themselves.

Vice-chairman/Council Member Carr stated his support of expanding this program city-wide as it is the role of the program to help individuals whose home values have increased dramatically beyond what their income level is in order to remain in the community versus selling their homes and moving out of the city. He felt that assistance is an appropriate role of government and an appropriate role of the Redevelopment Agency to provide clean-up programs that not only help the homeowner but the entire neighborhood.

Mr. Toy indicated that household income is evaluated as well as the value of the home when a homeowner applies for the program.

Vice-chairman/Council Member Carr stated that he did not recommend that a vote be taken on the entire program because there are only three individuals in attendance who are eligible to vote this evening. He recommended that expansion of the program be excluded this evening and that staff return to the City Council/Agency Commission with additional findings for the expansion of the program.

Redevelopment Agency Action:

Action: *Agency/Council Member Chang made a motion, seconded by Agency/Council Member Tate, to Approve the Housing Paint and Clean-up Grant Program as an On-going Housing Program with the Recommended Revisions; and Made Findings of Benefit for the Use of Agency 20% Housing Set Aside Funds Within the Project Area for the Housing Paint Program.*

Executive/City Manager Tewes informed the Agency Commission/City Council that staff may be back in a year or two with additional changes to the program because the housing and clean-up programs are the subject of legislation that may restrict the City's ability to use the program in the future. He indicated that staff would be monitoring this legislation in the future and keep the Agency Commission/City Council informed about this legislation.

Vice-chairman/Council Member Carr requested that staff return with the expansion of the program city-wide for a future Agency Commission/City Council meeting.

Agency Member/Mayor Pro Tempore Sellers resumed his seat on the dais.

City Council Action

PUBLIC HEARINGS:

19. **ZONING AMENDMENT, ZA-01-03: CITY OF MORGAN HILL - ZONING TEXT AMENDMENT**

Director of Community Development Bischoff presented the staff report. Mayor Pro Tempore opened the public hearing. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, Continued the Public Hearing to August 15, 2001.*

20. **ZONING AMENDMENT, ZA-00-14: OAK PARK - GENTILE - Ordinance No. 1514, New Series**

Director of Community Development Bischoff presented the staff report. Mayor Pro Tempore

Sellers opened the public hearing. No comments being offered, the public hearing closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Waived** the Reading in Full of the Zoning Amendment (ZA) Ordinance No. 1514, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance 1514, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN FOR ANR-1-7,000/RPD SINGLE-FAMILY RESIDENTIAL PLANNED DEVELOPMENT LOCATED ON THE WEST SIDE OF DeWITT AVENUE, SOUTH OF WEST DUNNE AVENUE (APN 773-08-043) by the following roll call vote: AYES: Carr, Chang, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy.*

21. GENERAL PLAN AMENDMENT, GPA-98-02 AND ZONING AMENDMENT, ZA-01-06: CITY OF MORGAN HILL - GENERAL PLAN UPDATE, REZONING OF EFFECTED PROPERTIES AND MASTER ENVIRONMENTAL IMPACT REPORT (EIR) - Resolution Nos. 1511 and 1512 and Ordinance No. 1521, New Series

Director of Community Development Bischoff presented the staff report. He indicated that an erratum sheet was provided this evening, noting that the environmental consultant identified an error that was included in the final EIR. He said that the summary contained errors to two of the mitigation measures and that the errata sheet makes the correction. He addressed Mr. Garcia's Madrone Crossing/Capriana project. Mr. Garcia is requesting that the southeast portion of the property be re designated to multi-family low. The Planning Commission wanted to ensure that individuals driving on Hale and Tilton Avenues would see single family homes rather than multi family homes. The Planning Commission is recommending that in exchange for multi-family homes, the area fronting Hale and Tilton Avenues be developed with single family homes. Mr. Garcia is proposing to commit to single family detached homes being constructed in the area under discussion but that he would request that the property retain its designation of multi-family.

Regarding Murphy Avenue, Mr. Bischoff said that over the course of the three public hearings held regarding the General Plan update, consideration and discussion were given to Murphy Avenue and land use designations in this area. Based on the comments raised by area residents, the City Council directed staff to reduce the industrial designation by 40 acres, taking the industrial area away from the residential area. Also, the City Council was sympathetic about the traffic that Murphy Avenue would carry as expressed by the residents. The City Council decided to leave Murphy Avenue as an arterial street, adding an action item 3.21 to the Circulation Element that states: "Evaluate the feasibility of developing Murphy Avenue as a two lane arterial or collector street. The evaluation should assess as two alternatives the potential of designating Condit Road as an arterial street and reducing land use intensities in the area served by Murphy Avenue and Condit Road." He said that as a follow up to the general plan update, staff would look more specifically at the concern of the neighbors to see what can be done.

Mayor Pro Tempore Sellers opened the public hearing.

Rocky Garcia stated that the development commitment for the project remains the same. He stated that it makes a difference as to where the line is drawn for the multi-family low because a clause has been added to Measure P regarding the introduction of single family detached in a multi-family low area. He stated that he would agree to provide single family detached homes in the area that backs up to Santa Teresa. He indicated that the new Measure P standards and criteria, under Housing Needs, includes a clause that states "over and above BMR units committed in this section provides an additional 10% detached units in an R-2 project or an additional 10% attached units in an R-1 project; two points." This is a new item and that it would be possible for him to garnish points under this criteria in the R-1 area. He requested that he be allowed to follow what he has presented, that is to maintain the multi-family low out to the edge of the wetland and park area. He said that a lot line adjustment has been approved by the city for this area. He said that the RPD submittal would reflect the intent and commitment made to the Planning Commission. He stated that he would agree to submit the RPD as soon as possible.

Council Member Chang inquired how the City Council could hold Mr. Garcia to his word that he can only apply for the number of units identified for the project? Mr. Bischoff responded that he was not sure what the City Council could do through the General Plan update to restrict the number of lots for the project. However, the Planning Commission has stated that they want Mr. Garcia's RPD brought back for a public hearing so that they can place requirements on the project. He further stated that the Planning Commission did not discuss their intent of allowing Mr. Garcia to use the single family lots to receive credit under the new provisions in Measure P.

No further comments being offered, the public hearing closed.

Council Member Tate noted that the Planning Commission told Mr. Garcia that they wanted to see more single family homes in a specific area in a multi family environment. He stated that he could support retaining the multi-family designation.

Council Member Chang stated that she too would agree to retain the multi-family designation as long as Mr. Garcia keeps his word and that there is assurance that the project is developed as described this evening.

Mayor Pro Tempore Sellers recommended that should the City Council support Mr. Garcia's request that the motion reflect the City Council's concurrence with the Planning Commission's intent. The Planning Commission will review the project's RPD for compliance of the intent.

Council Member Tate recommended that the City Council concur with the Planning Commission's recommendation to update the system to award developers who would include single family in a multi-family environment. As Mr. Garcia is agreeing to do so, he did not understand why Mr. Garcia should not be rewarded for agreeing to provide a housing mix.

In response to Council Member Carr's question, Mr. Bischoff indicated that the Planning Commission placed the requirement on Mr. Garcia prior to the City Council's approval of the

Measure P updates. He said that the recommended housing mix would not change the number of units for the entire project.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Adopted** Resolution No. 5511, Certifying the Master EIR is Complete and Adequate, Which Includes Findings of Overriding Considerations for Air Quality.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Adopted** Resolution No. 5512, Approving the Draft General Plan, with Amendments. Amending Section 3 to delete reference to area 3b from the Land Use Diagram (maintain multi family designation for the Madrone Ranch project).*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Waived** the Reading in Full of the Zoning Amendment (ZA) Ordinance No. 1521, New Series, Approving the Zoning Map Amendments.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1521, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 559, NEW SERIES, BY ZONING PROPERTIES IN VARIOUS LOCATIONS THROUGHOUT THE CITY TO MAINTAIN CONSISTENCY WITH THE GENERAL PLAN by the following roll call vote: AYES: Carr, Chang, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy.*

22. **HEARING FOR EXEMPTION TO UNDERGROUNDING UTILITIES - 730 SAN PEDRO AVENUE**

City Manager Tewes presented the staff report. Mayor Pro Tempore Sellers opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Granted** Exemption to the Requirement to Underground Utilities with Payment in Lieu for the Proposed Development at 730 San Pedro Avenue.*

23. **ADOPTION OF RESOLUTIONS CONFIRMING FISCAL YEAR 2001/2002 ANNUAL ASSESSMENTS FOR THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE MAINTENANCE DISTRICT - Resolution Nos. 5509 and 5510**

Council Member Chang stated that one of the districts is located within 500 feet of her residence.

Deputy Public Works Director Struve presented the staff report. He informed the City Council that the landscape maintenance contract was rebid this year, noting that the contractor has changed. He

addressed the level of service to be provided for one of the sub areas.

Mayor Pro Tempore Sellers opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Confirmed** FY 2001-02 Annual Assessment for the Fox Hollow/Murphy Springs Assessment District by doing the following:*

***Adopted** Resolution No. 5509 Amending and/or Approving the Final Engineer's Annual Levy Report for the Fox Hollow/Murphy Springs Landscape Maintenance District, Fiscal Year 2001/02, excluding the Murphy Spring/Jackson Meadows Unit 7 areas.*

***Adopted** Resolution No. 5510 Ordering the Levy and Collection of Assessments Within the Fox Hollow/Murphy Springs Landscape Maintenance District, Fiscal Year 2001/02, excluding the Sandalwood/Jackson Meadows Unit 7 areas.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 3-0-1 vote with Council Member Chang abstaining and Mayor Kennedy absent, **Adopted** Resolution No. Ordering the Levy and Collection of Assessments Within the Fox Hollow/Murphy Springs Landscape Maintenance District, Fiscal Year 2001/02 for Sandalwood/Jackson Meadows Unit 7 areas.*

OTHER BUSINESS:

24. BMX INTERIM SITE PROPOSED AT VACANT VALLEY TRANSPORTATION AGENCY (VTA) LAND BEHIND INTERIM SKATE PARK

Recreation Manager Spier presented the staff report. She indicated that a subcommittee consisting of Mr. Honesto, Parks & Recreation Commissioner Hagiperos and staff are willing to look at a list of proposed BMX sites that can be used for no longer than three years. In response to Council Member Tate's question, she indicated that youth representation is included in the group reviewing alternative interim sites.

Council Member Tate felt that this was an opportunity to give the City's youth a leadership role on a project and felt that they should be given the opportunity to take on this leadership role.

Ms. Spier informed the City Council that staff has met with the BMR club that consists of five youth members that sat through a meeting to discuss some of the processes that the City has to go through for an interim/permanent BMR park. Staff is also recommended that a youth representative be included in the committee.

Mayor Pro Tempore Sellers opened the floor to public comment.

Ed Onesto informed the City Council that he has been working with a group of boys and adults the past five months along side Ms. Spier. He indicated that the VTA site is being pursued for the following reason: 1) BMX users were short changed and forgotten when the skate park was built; 2) the City should be the forerunner in providing a BMX park; and 3) the only public BMX park available is located in the Cupertino and Salinas areas. He understood that there might be an issue because of the possibility of a courthouse coming into this area. He indicated that he spoke with a representative from VTA prior to this meeting who expressed a primary concern with "squatters rights." VTA feels that if they grant approval of an interim BMX park, in two years, BMX users would state that VTA could not remove them from the interim park site.

Council Member Tate encouraged the youth to make a short presentation to the City Council, communicating their enthusiasm as to why they feel that this would be a beneficial project to the community.

No further comments were offered.

Action: *Council Member Chang made a motion, seconded by Council Member Tate, to **Support** the Parks and Recreation Commission Recommendation regarding the Placement of the Interim BMX at the VTA Vacant Land Behind the Interim Skate Park and to Appeal to the VTA Board to Reconsider Their Disallowance of Use.*

Council Member Tate inquired if there was a way to alleviate VTA's concerns such as including a clause in the agreement that would state that with 30 days notice, the interim BMX park would be vacated.

Council Member Chang recommended that Mayor Kennedy be allowed to address this issue as he sits on the VTA Board.

Council Member Carr stated that he could not support the action this evening. He stated that there is a hearing scheduled on August 7 in which the County will hear about the proposed location for a courthouse, noting that the preferred site is located next door to the VTA site. The City Council has heard concerns from neighborhood activists who were active in the discussion about the skate park and have been very active in the discussions about the courthouse as well as the widening of Butterfield Boulevard. Until it is known whether the courthouse will be placed at the site, he is not willing to support staff's recommended action. He felt that it would be a good location to place a "temporary" BMX park with a timeline as it makes sense to use sites that are already in place. However, the combined impacts to this area of town of a skate park, BMX park, and a courthouse are too great, especially if the County moves forward with the courthouse at this location. He stated that notification has not been given to the neighborhood about this issue, noting that the neighborhood takes interest on what goes on in their neighborhood. He recommended that a decision on this issue be postponed until after the August 7 County Board of Supervisors meeting.

Mayor Pro Tempore Sellers felt that there were two factors that led him to recommend proceeding with this issue: 1) there is an increasing acute need in the community to serve the youth that superceeds the interim concerns; and 2) he did not see any way that the courthouse facility would

be underway before the skate and BMX park facilities are relocated. He noted that there is a strong push toward finding a permanent facility. He inquired if there were other sites that might serve as interim sites, especially the parcels of land recently purchased by the City as development of the sites would be two to three years out?

Ms. Spier stated that in the process of having VTA review the request, there was strong indication that there was no problem with the site until last week when VTA staff indicated that the City should look for a permanent site. In the mean time, the Gunderson site has become a possibility, noting that other parcels are being investigated. She indicated that the BMX supporters are planning to attend the August 2 VTA meeting to address the appeal. She indicated that the Gunderson site is being investigated, noting that the burrowing owl mitigation has to be followed and that time factors need to be looked at for all interim sites. She informed the City Council that a public meeting will be held with the Parks and Recreation Commission with notification to all neighbors. Addressed will be issues to be mitigated that would be brought to the City Council for consideration and providing another opportunity for the neighbors to address the City Council.

Council Member Chang recommended that this item be continued to August 1 to allow Mayor Kennedy to provide insight on this issue as she would hate to have the VTA Board state its objection to the interim BMX park a second time.

Ms. Spier informed the City Council that in order for the VTA Board to hear an appeal, a request to rehear the appeal needs to be made. She noted that the request for reconsideration is coming from the BMX club. She stated that she was not sure that this issue would make the VTA Board's August 2 agenda.

Action: *Council Member Chang withdrew her motion.*

Council Member Carr agreed that there is a need for a BMX park and felt that it would be a good site. However, he noted that alternate sites have not been investigated and therefore, it is not known which would be the best interim site. He recommended that this item be deferred for two weeks in order to be included on the VTA Board's agenda for an action item versus appealing to the VTA Board during their public comment session where they will not be able to make a decision. He recommended that the City complete its work in advance of the meeting which includes conducting a public hearing and review of alternative sites. He recommended that the City wait until after August 7 to see what the County decides about the location of the courthouse.

Council Member Tate stated his support of moving forward with the request for VTA reconsideration of the appeal on August 2, bringing this item back next week to receive Mayor Kennedy's input. He felt that this is the perfect location for an interim BMX park.

Mr. Onesto informed the City Council that he mailed a letter to the VTA Board Secretary requesting that this issue be placed on their August 2 agenda.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 3-1 vote with Council Member Carr voting no and Mayor*

*Kennedy absent, **Supported** the Parks and Recreation Commission Recommendation regarding the Placement of the Interim BMX at the VTA Vacant Land Behind the Interim Skate Park and to Appeal to the VTA Board to Reconsider Their Disallowance of Use.*

Action: *Mayor Pro Tempore Sellers **requested** that this item be reagendized for the City Council's August 1, 2001 meeting.*

Mayor Pro Tempore Sellers recommended that items 25 and 26 be continued to August 1 to allow Mayor Kennedy's presence as the Mayor makes appointments, subject to Council ratification.

Council Member Chang and Mayor Pro Tempore Sellers expressed interest in serving on the Community Indoor Recreation Center.

Council Member Tate noted staff's aggressive schedule. However, this aggressive schedule did not show any opportunity for public input. He wanted to make sure that public meetings are held, tailoring some sessions to youth and seniors.

City Manager Tewes indicated that additional public sessions would be included but that it would extend the schedule.

Deputy Director of Public Works Struve stated that there will be representation from the Youth Advisory and Senior Advisory Commission.

25. CITY COUNCIL REPRESENTATION ON ARCHITECTURAL DESIGN SELECTION COMMITTEE FOR COMMUNITY INDOOR RECREATION CENTER

Action: *By consensus, the City Council **continued** this item to August 1, 2001.*

26) APPOINTMENT TO THE HOUSING ELEMENT ADVISORY COMMITTEE

Action: *By consensus, the City Council **continued** this item to August 1, 2001.*

Redevelopment Agency and City Council Action

CLOSED SESSION:

Agency Counsel/City Attorney Leichter announced the below listed closed session items. She noted that Closed Session No. 2 is in regards to statements contained in the January 2001 letter from William Dahlin, Attorney.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation

Authority: Government Code section 54956.9(b)

Two (2) cases

2.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation

Authority: Government Code section 54956.9(b)

One (1) case

3.

CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code 54956.8

Real Property Involved: 4.5 acres and a 20 acre parcel located at the westerly end of Main Avenue
(APNs 773-06-008 and 009)

Negotiating Parties:

For City/Agency: City Manager/Executive Director; City Attorney/Agency Counsel;
Director of Community Development

For Property Owners: Virginia Acton Trustee

Closed Session Topic: Acquisition of Real Property

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)

Case Name: City of San Jose v. MHUSD, et al.; Case No. 01CS00196, Santa Clara County Superior Court

5.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION; CONFERENCE WITH
REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25 .50 acres located on the southwesterly side of
Cochrane Road (St. Louise Hospital property)

Negotiating Parties:

For City/Agency: Agency Members; Executive Director; Agency Counsel; and F. Gale
Conner, special counsel

For Property Owners: San Jose Christian College

Closed Session Topics: Potential Litigation/Real Estate Negotiations

PUBLIC COMMENT

Chairman/Mayor Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION:

Chairman/Mayor Kennedy adjourned the meeting to closed session at 9:40 p.m.

RECONVENE:

Chairman/Mayor Kennedy reconvened the meeting at 10:38 p.m.

CLOSED SESSION ANNOUNCEMENT:

Agency Counsel/City Attorney Leichter announced that under Closed Session No. 1, the Agency Commission/City Council authorized her to initiate action against Mr. Betpolice (Shariel Park). No reportable action was take on the remainder closed session items.

FUTURE AGENCY-INITIATED AGENDA ITEMS:

No items were identified.

ADJOURNMENT

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 10:40 p.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torrez, CMC
City Clerk